Remarks

I. Status of claims

Original claims 1-10 and 22-52 are pending.

Original claims 11-21 have been withdrawn as being directed to a non-elected species.

Claims 41, 44, 45, and 48 have been rewritten in independent form.

II. Election of species

Applicant respectfully requests that original claim 19 be included with the current set of elected claims (claims 1-10) because claim 19 encompasses the elected Species I and essentially tracks claim 1.

Applicant also respectfully requests that original claims 16-18 and 21 be included in the current set of elected claims because they recite respective subject matter that is outside the scope of each of the four species identified by Examiner Rosendale in the action dated July 29, 2003.

III. Rejection of claims

For the purpose of the following discussion, the examiner is reminded that:

> To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not on applicants' disclosure.

MPEP § 706.02(j). Furthermore, as pointed out by the Patent Office Board of Appeals and Interferences:

> The examiner should be aware that "deeming" does not discharge him from the burden of providing the requisite factual basis and establishing the requisite motivation to support a conclusion of obviousness.

Ex parte Stern, 13 USPQ2d 1379 (BPAI 1989).

A. Claims 1-10, 22-29, 31-38, and 40-51

The Examiner has rejected claims 1-10, 22-29, 31-38, and 40-51 under 35 U.S.C. § 103(a) over Rekimoto (U.S. 6,567,068) in view of Suso (U.S. 6,069,648).

1. Independent claim 1

Claim 1 has been amended and now recites "maintaining the position of the cursor fixed in the display while repositioning the icons in the display in a direction opposite to the sensed motion of the camera."

In section 4 of the Office action, the Examiner has asserted that:

> Rekimoto teaches and depicts in Figure 5 that the user moves the display device to select the icons by showing different parts of the entire list of icons on the screen based on the direction in which the user moves the display device in free space. Therefore, by moving the display device to the left to view icons in that direction, icons currently on the display screen are displaced to the right so that icons located in the direction in which the user us moving the display device may be scrolled onto the display screen.

Contrary to the Examiner's assertion, however, the menu is not repositioned in the display in a direction opposite to the sensed motion of the PDA in the embodiment shown in FIG. 5 of Rekimoto. Indeed, Rekimoto's disclosure provides no basis whatsoever for inferring that the menu is repositioned in the display in a direction opposite to the sensed motion of the PDA in the embodiment shown in FIG. 5. To the contrary, one of ordinary skill in the art at the time the invention was made could only reasonably conclude from Rekimoto's teaching that the menu shown in FIG. 5 is repositioned in the same direction as the sensed rotation of the PDA.

With regard to the embodiment shown in FIG. 3, Rekimoto teaches that "when the device is rotated, the cursor is moved on the menu to select a prescribed menu item" (col. 6, lines 28-30). Immediately after this teaching, Rekimoto contrasts the embodiment of FIG. 5 from the embodiment of FIG. 3 as follows (col. 6, lines 30-34; emphasis added):

> However, the cursor could be fixed at a predetermined position, for example, at the center as shown in FIG. 5, and the menu could be moved within the frame when the device is rotated. With this operation, a prescribed menu item could be selected.

This teaching is the entire extent of Rekimoto's disclosure of the embodiment shown in FIG. 5. The only reasonable conclusion that one of ordinary skill in the art could have reached from this disclosure is that the menu is moved in the embodiment of FIG. 5 in a way that is analogous to the way in which the cursor is moved in the embodiment of FIG. 3 (i.e., when the device is rotated, the menu is moved under the cursor to select a prescribed menu item; *cf* col. 6, lines 28-30). With regard to the movement of the cursor in the embodiment of FIG. 3, Rekimoto teaches that (col. 5, lines 14-25):

> In step S7, the cursor is moved up, down, right or left in accordance with the respective amounts of rotation around the X-axis in step S5 and the Y-axis in step S6.
>
> That is, in order to move the cursor in the upward and downward directions and the right and left directions in accordance with the rotation of the whole device, the bit map data corresponding to the cursor and the data corresponding to the display position to which the cursor currently displayed on the screen is displaced in the upward and downward directions and the right and left directions, are supplied to the LCD controller.

That is, in the embodiment of FIG. 3, the cursor is repositioned in the same direction as the sensed rotation of the PDA. Therefore, one of ordinary skill in the art would have concluded that in the embodiment of FIG. 5 the menu is repositioned analogously in the same direction as the sensed rotation of the PDA. That is, when the PDA is tilted up, the menu moves up until the desired menu item (e.g., Banana) is positioned under the cursor as shown in FIG. 5.

Suso does not make-up for Rekimoto's failure to teach or suggest the step of maintaining the position of the cursor fixed in the display while repositioning the icons in the display in a direction opposite to the sensed motion of the camera. Moreover, neither Rekimoto nor Suso provides any suggestion or motivation that would have led one of

ordinary skill in the art to modify Rekimoto's PDA to maintain the position of the cursor fixed in the display while repositioning the icons in the display in a direction opposite to the sensed motion of the camera.

For at least these reasons, the Examiner's rejection of independent claim 1 under 35 U.S.C. § 103(a) over Rekimoto in view of Suso now should be withdrawn.

2. Dependent claims 2-10

Each of claims 2-10 depends from independent claim 1 and therefore is patentable over Rekimoto and Suso for at least the same reasons explained above. Claims 2-4 and 8 also are patentable over Rekimoto and Suso for the following additional reasons.

i. Claims 2 and 3

Claim 2 recites "tracking features in a scene viewed through the camera, and wherein at least one of the icons is repositioned to appear to be fixed in space with regard to the tracked features." Neither Rekimoto nor Suso teaches or suggests anything about tracking features in a scene viewed through a camera. As a result, neither Rekimoto nor Suso even hints at repositioning an icon so that it appears fixed in space with regard to tracked features in a scene viewed through a camera.

In addition to failing to move the menu in the proper direction for the icons to appear to be fixed in space as explained above, Rekimoto also fails to teach or suggest anything that would have led one of ordinary skill in the art at the time the invention was made to move the menu by an amount that is appropriately scaled to the PDA motion so that the menu appears fixed with respect to a feature in a scene.

ii. Claim 4

Claim 4 recites that "the presenting step comprises superimposing the cursor and the icons on a scene viewed through the camera." In section 30 of the Office action, the Examiner has indicated that:

> Rekimoto discloses on Column 6, lines 28-34 that the motion of the display by the user is tracked and used to reposition the image comprising sets of icons on the display. Rekimoto teaches a PDA in Figure 1 comprising a display device (3) for displaying a plurality of icons as shown in Figure 6. Rekimoto does not disclose that the display device of Figure 1 can be used as a viewfinder.
>
> However, Suso discloses a mobile telephone comprising a camera housing between a display body and a control body shown in Figure 7. The display body of Suso can be used as a camera viewfinder (18) for image preview of an object (Column 5, lines 33-62).
>
> Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a PDA camera phone comprising the viewfinder as taught by Suso with the PDA display device of Rekimoto so that the user can preview an object between image capture to ensure a high quality image.

The Examiner's argument, however, is unpersuasive. In particular, there is no teaching or suggestion in either Rekimoto or Suso that would have led one of ordinary skill in the art to use Rekimoto's menu interface methods in the camera image display 18 in Suso's mobile telephone. Indeed, in the camera image mode of operation, camera images only appear in the camera image display 18 (see col. 5, lines 20-32); icons are not displayed in the camera image display 18. Instead, icons are displayed in a separate display 20 (see col. 5, line 66 though col. 6, line 6). One of ordinary skill in the art therefore would not have been motivated to use Rekimoto's menu interface methods in the camera image display 18, contrary to the Examiner's assertion. In addition, the superposition of Rekimoto's cursor and menu in the display 18 would not serve any purpose whatsoever because the selectable icons are presented in the other display 20.

The Examiner also has indicated that:

> Furthermore, Official notice is taken that it was well known in the art to have viewfinders for cameras to superimpose icons over the image in order to convey battery charge, time, and other information to a user. This is viewed as simultaneously presenting a virtual image (icons) and an image of a scene viewed through the camera (viewfinder image).

The mere fact that such viewfinders may have existed before the invention was made, however, would not have motivated one of ordinary skill in the art to superimpose a fixed

cursor and repositionable icons on a scene viewed through the camera, as now recited in claim 4. Indeed, the Examiner Official Notice fails to provide any motivation to superimpose a cursor one a scene viewed through the viewfinder. In addition, there is no indication that the battery charge and time icons contemplated by the Examiner are repositionable icons.

To the extent that the Examiner relies on an "Official Notice" of prior art in his rejections of the claims, the Examiner is reminded that he is obligated to establish a proper *prima facie* case of obviousness in accordance with MPEP § 706.02(j) (quoted above). Thus, the Examiner is obligated to point to some suggestion or motivation in the cited references or in the knowledge generally available to modify or combine reference teachings to arrive at all of the claim limitations. In order to meet this obligation, the Examiner is requested to cite actual prior art documents that support his assertions. Alternatively, if the Examiner is aware of facts within his personal knowledge that provide the requisite factual basis and establishes the requisite motivation to support his deemed conclusion of obviousness, the Examiner is requested to provide an affidavit in accordance with 37 CFR § 1.104(d)(2).

iii. Claim 8

Claim 8 recites "interpreting the sensed motion of the camera as user input; and performing image manipulation on a high resolution image associated with a selected one of the thumbnail images in a manner responsive to the interpreted user input."

The Examiner has asserted that:

> In regards to Claim 8, Suso teaches that a high-resolution image can be displayed on the display portion corresponding to a thumbnail image selected by a user. However, Suso does not the use of modifying the high quality image. Official Notice is taken that it is well known to provide image processing inside a camera so that captured images can be corrected for white balance, color balance, Cropping, red Eye removal defective pixel removal etc. in order to improve image quality.
>
> Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide any known image processing means in the camera of Suso so that selected images that the user intends to keep could be processed to produce a finished image.

The Examiner has acknowledged that none of the cited references teaches or suggests the features recited in claim 8, yet the Examiner has concluded that claim 8 would have been obvious on the basis of unspecified prior art. With this rejection, the Examiner has failed to provide the requisite factual basis and failed to establish the requisite motivation to support his deemed conclusion that the features recited in claim 8 would have been obvious to one of ordinary skill in the art at the time of the invention.

The Examiner merely asserts without any basis that the features recited in claim 48 would have been obvious over unspecified cameras that "provide image processing." The Examiner, however, has failed to explain where either Rekimoto or Suso or the allegedly known prior art provides a suggestion or motivation that would have led one of ordinary skill in the art at the time the invention was made to a process for a camera in which a captured image is modified in response to user interface input interpreted from sensed motion. Indeed, neither Rekimoto nor Suso teaches or suggests anything about incorporating an image processing system of the type relied upon by the Examiner. Moreover, as explained above there is no teaching or suggestion in either Rekimoto or Suso that would have led one of ordinary skill in the art to use Rekimoto's menu interface methods in the camera image display 18 in Suso's mobile telephone. Indeed, since icons are not displayed in the camera image display, one of ordinary skill in the art would not have been motivated to use Rekimoto's menu interface methods in the camera display area. Accordingly, there is no teaching or suggestion, either in the cited references or in the knowledge generally available, that would have led one of ordinary skill in the art to use motion sensing to control a cursor in the camera display area 18 of Suso's mobile telephone.

It appears that the Examiner improperly has engaged in hindsight reconstruction of the claimed invention, using applicants' disclosure as a blueprint for piecing together the cited prior art to defeat patentability. Without a proper explanation for combining the cited prior art to arrive at the invention recited in claim 8, the Examiner has failed to establish a proper *prima facie* case of obviousness and the rejection of claim 8 should be withdrawn.

In addition, the Examiner is requested to cite actual documentary evidence in support of his assertions regarding the image processing system that is the subject of his Official Notice. Alternatively, if the Examiner is aware of facts within his personal knowledge that provide the requisite factual basis and establishes the requisite motivation to support his deemed conclusion that the features recited in claim 8 would have been obvious, the

Examiner is requested to provide an affidavit in accordance with 37 CFR § 1.104(d)(2). Otherwise, the Examiner's rejection of claim 8 should be withdrawn.

3. Independent claim 22

Independent claim 22 has been amended and now recites that the circuitry is configured to interpret sensed motion of the device as a user interface input and to present on the display images superimposed on a scene viewed though the camera in accordance with the interpreted user interface input.

Claim 22 is patentable over Rekimoto and Suso for the same reasons explained above in section III.A.2.ii. To summarize, neither Rekimoto nor Suso provides any teaching or motivation that would have led one of ordinary skill in the art at the time the invention was made to superimpose the cursor and menu disclosed in Rekimoto on a scene viewed through the display 18 of Suso's mobile telephone. Indeed, in Suso's approach, the icons are displayed in a display 20 that is separate and distinct from the display 18 in which the scene viewed through the camera is displayed. For this reason, the superposition of Rekimoto's cursor and menu in the display 18 would not serve any purpose whatsoever.

For at least these reasons, the Examiner's rejection of independent claim 22 under 35 U.S.C. § 103(a) over Rekimoto in view of Suso now should be withdrawn.

4. Dependent claims 23-29, 42, 43, and 51

Each of claims 23-29, 42, 43, and 51 incorporates the features of independent claim 22 and therefore is patentable for at least the same reasons explained above.

5. Independent claim 31

Independent claim 31 has been amended and now recites that the circuitry is configured to interpret sensed motion of the device as a user interface input and to present on the display images superimposed on a scene viewed though the camera in accordance with the interpreted user interface input.

Claim 31 is patentable over Rekimoto and Suso for the same reasons explained above in section III.A.2.ii. To summarize, neither Rekimoto nor Suso provides any teaching or motivation that would have led one of ordinary skill in the art at the time the invention was made to superimpose the cursor and menu disclosed in Rekimoto on a scene viewed through the display 18 of Suso's mobile telephone. Indeed, in Suso's approach, the icons are displayed in a separate display 20 from the display 18 in which the scene viewed through the camera is displayed. For this reason, the superposition of Rekimoto's cursor and menu in the display 18 would not serve any purpose whatsoever.

For at least these reasons, the Examiner's rejection of independent claim 22 under 35 U.S.C. § 103(a) over Rekimoto in view of Suso now should be withdrawn.

6. Dependent claims 32-38 and 40

Each of claims 32-38 and 40 incorporates the features of independent claim 31 and therefore is patentable for at least the same reasons explained above.

7. Independent claim 41

Claim 41 has been rewritten in independent form and now recites "repositioning the images presented on the display in response to sensed motion of the camera such that the presented images appear fixed with respect to a coordinate system external to the camera."

The Examiner has asserted that:

> In regards to Claim 41, Rekimoto depicts in Figures 5 and 6 and teaches on Column 6, lines 21-34 and one column 2, lines 57-67 the different regions of the given image are displayed so that the icons appear fixed with respect to a coordinate system external to the camera (Figure 1).

Contrary to the Examiner's assertion, however, none of Rekimoto's embodiments reposition the images presented on the display in response to sensed motion of the camera such that the presented images appear fixed with respect to a coordinate system external to the camera.

In the embodiment shown in FIG. 3, the position of the menu in the display is fixed and is not repositioned in response to sensed motion of the PDA.

In the embodiment of FIG. 5, the menu is moved in the same direction as the sensed motion of the PDA. As a result, in response to rotation of the PDA, the menu is repositioned with respect to any coordinate system external to the PDA. For example, in response to upward rotation of the PDA, the menu moves up in the display as shown in FIG. 5. However, in order to appear fixed with respect to a coordinate system external to the PDA, the menu would have to move down in the display by an appropriate amount.

As explained above, in addition to failing to move the menu is the proper direction, Rekimoto also fails to teach or suggest anything that would have led one of ordinary skill in the art at the time the invention was made to scale the amount by which the menu moves appropriately so that the menu would appear fixed with respect to an external coordinate system.

Suso does not make-up for Rekimoto's failure to teach or suggest the step of maintaining the position of the cursor fixed in the display while repositioning the icons in the display in a direction opposite to the sensed motion of the camera, which step now is recited in claim 1.

For at least these reasons, the Examiner's rejection of independent claim 41 under 35 U.S.C. § 103(a) over Rekimoto in view of Suso now should be withdrawn.

8. Independent claim 44

Claim 44 has been rewritten in independent form. Claim 44 recites "presenting different portions of a virtual panorama in the display in accordance with the interpreted user interface input, wherein the virtual panorama is composed of multiple images captured by the camera."

The Examiner has asserted that (emphasis added):

> As for Claim 44, Rekimoto teaches on Column 7, lines 9-48 that a virtual map can be displayed on the display and that only a small portion of the entire map image is displayed on the display at any given time. Furthermore, the area of the image that is displayed is based on the movement detected by the motion sensors. This is viewed by the examiner as presenting different portions of a virtual panoramic image in a display in accordance with the interpreted user interface input, wherein the virtual panorama is composed of multiple images. However, Rekimoto does not teach the use of a camera and

> does not teach that the image that can be displayed on the display in accordance with the movement detected by the motion sensor can be an image captured by a camera.
>
> Suso teaches a mobile telephone comprising a camera housing between a display body and a control body. The mobile phone of Suso can be used for various purposes including the display of images as shown in Figure 7.
>
> Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a camera as taught by Suso with the PDA device of Rekimoto so that the user can display the captured images.

With this rejection the Examiner has failed to establish a proper *prima facie* case of obviousness. In particular, the Examiner has acknowledged that Rekimoto fails to teach or suggest a process for a camera that comprises presenting different portions of a virtual panorama composed of multiple images captured by the camera, as recited in claim 44. Indeed, Rekimoto's PDA does not include a camera and therefore cannot compose a virtual panorama of the type recited in claim 1, much less present different portions of such a panorama. The Examiner, however, has failed to explain how Suso makes-up for Rekimoto's failure to teach or suggest a process for a camera that comprises presenting different portions of a virtual panorama composed of multiple images captured by the camera. The Examiner merely indicates that Suso discloses a mobile telephone that has a camera and can display images. Suso, however, fails to teach or suggest anything about a panorama composed of multiple images captured by his mobile telephone and fails to even hint at a process in which different portions of such a virtual panorama are presented in accordance with user interface input interpreted from sensed motion.

Thus, the Examiner has failed to meet the third prong of the requirement laid out in MPEP § 706.02(j), which prong requires that "the prior art reference (or references when combined) must teach or suggest all the claim limitations." For at least these reasons, the Examiner's rejection of claim 44 over Rekimoto and Suso should be withdrawn.

9. Claims 45-47

Claim 45 has been rewritten in independent form. Claim 45 recites "selecting a portion of a scene through the camera based on the interpreted user interface input," where sensed motion of the camera is interpreted as a user interface input.

The Examiner has asserted that (emphasis added):

> In regards to Claim 45-47, Rekimoto teaches a method of using gyroscopic sensors to detect motion of an electronic device. Rekimoto teaches an improved Cursor/pointer system in which icons on a screen can be selected in accordance with the detected movement by gyroscopic sensors. Suso teaches a mobile telephone comprising a camera housing between a display body and a control body. The mobile phone of Suso can be used for various purposes including the display of images as shown in Figure 7. However, neither Rekimoto nor Suso teaches selecting a portion of the displayed image by designating boundaries of a region of a scene and storing the boundary region information for further processing.
>
> Official notice is taken that it was well know in the art at the time the invention was made to allow a cursor/pointer of an image processing system to be clicked and dragged across an image in order to allow a user to manipulate a sub-region of the image.
>
> Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to enable a user to click on the displayed image of Rekimoto in view of Suso and drag the cursor across the image in order to allow a user to manipulate a sub-region of the image.

The Examiner has acknowledged that none of the cited references teaches or suggests the features recited in claim 45, nevertheless the Examiner has concluded that claim 45 would have been obvious on the basis of unspecified prior art. With this rejection, the Examiner has failed to provide the requisite factual basis and failed to establish the requisite motivation to support his deemed conclusion that the features recited in claim 45 would have been obvious to one of ordinary skill in the art at the time of the invention.

The Examiner merely asserts without any basis that the features recited in claim 45 would have been obvious over art unrelated to the subject matter of either of the cited references. In particular, the Examiner has asserted that it was known for a "cursor/pointer of an image processing system to be clicked and dragged across an image in order to allow a

user to manipulate a sub-region of the image" (emphasis added). But the Examiner has failed to explain how such allegedly known prior art would have led one of ordinary skill in the art at the time the invention was made to a process for a camera in which a portion of a scene through the camera is selected based on the interpreted user interface input. For example, neither Rekimoto nor Suso teaches or suggests anything about incorporating into their respective devices an image processing system with a cursor/pointer than can be clicked and dragged across an image.

In addition, there is no teaching or suggestion in either Rekimoto or Suso that would have led one of ordinary skill in the art to use Rekimoto's menu interface methods in the camera image display 18 in Suso's mobile telephone. Indeed, since icons are not displayed in the camera image display 18, one of ordinary skill in the art would not have been motivated to use Rekimoto's menu interface methods in the camera image display 18. Accordingly, there is no teaching or suggestion, either in the cited references or in the knowledge generally available, that would have led one of ordinary skill in the art to use motion sensing to control a cursor in the camera display area 18 of Suso's mobile telephone.

It appears that the Examiner improperly has engaged in hindsight reconstruction of the claimed invention, using applicants' disclosure as a blueprint for piecing together the cited prior art to defeat patentability. Without a proper explanation for combining the cited prior art to arrive at the invention recited in claim 45, the Examiner has failed to establish a proper *prima facie* case of obviousness and the rejection of claim 45 should be withdrawn.

In addition, the Examiner is requested to cite actual documentary evidence in support of his assertions regarding the image processing system that is the subject of his Official Notice. Alternatively, if the Examiner is aware of facts within his personal knowledge that provide the requisite factual basis and establishes the requisite motivation to support his deemed conclusion that the features recited in claim 45 would have been obvious, the Examiner is requested to provide an affidavit in accordance with 37 CFR § 1.104(d)(2). Otherwise, the Examiner's rejection of claim 45 should be withdrawn.

Each of claims 46 and 47 incorporates the features of independent claim 45 and therefore is patentable over Rekimoto and Suso for at least the same reasons.

10. Claims 48-50

Claim 44 has been rewritten in independent form. Claim 44 recites "modifying a captured image in response to the interpreted user interface input," where sensed motion of the camera is interpreted as a user interface input.

The Examiner has asserted that:

> As for Claim 48-50, Suso teaches that a high-resolution image can be displayed on the display portion corresponding to a thumbnail image selected by a user. However, Suso does not the use of modifying the high quality image.
>
> Official Notice is taken that it is well known to provide image processing inside a camera so that captured images can be corrected for white balance, color balance, Cropping, red Eye removal defective pixel removal etc. in order to improve image quality.
>
> Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide any known image processing means in the camera of Suso so that selected images that the user intends to keep could be processed to produce a finished image.

The Examiner has acknowledged that none of the cited references teaches or suggests the features recited in claim 48, nevertheless the Examiner has concluded that claim 48 would have been obvious on the basis of unspecified prior art. With this rejection, the Examiner has failed to provide the requisite factual basis and failed to establish the requisite motivation to support his deemed conclusion that the features recited in claim 48 would have been obvious to one of ordinary skill in the art at the time of the invention.

The Examiner merely asserts without any basis that the features recited in claim 48 would have been obvious over unspecified cameras that "provide image processing." The Examiner, however, has failed to explain where either Rekimoto or Suso or the allegedly known prior art provides a suggestion or motivation that would have led one of ordinary skill in the art at the time the invention was made to a process for a camera in which a captured image is modified in response to user interface input interpreted from sensed motion. Indeed, neither Rekimoto nor Suso teaches or suggests anything about incorporating an image processing system of the type relied upon by the Examiner. Moreover, as explained above there is no teaching or suggestion in either Rekimoto or Suso that would have led one of

ordinary skill in the art to use Rekimoto's menu interface methods in the camera image display 18 in Suso's mobile telephone. Indeed, since icons are not displayed in the camera image display 18, one of ordinary skill in the art would not have been motivated to use Rekimoto's menu interface methods in the camera image display 18. Accordingly, there is no teaching or suggestion, either in the cited references or in the knowledge generally available, that would have led one of ordinary skill in the art to use motion sensing to control a cursor in the camera display area 18 of Suso's mobile telephone.

It appears that the Examiner improperly has engaged in hindsight reconstruction of the claimed invention, using applicants' disclosure as a blueprint for piecing together the cited prior art to defeat patentability. Without a proper explanation for combining the cited prior art to arrive at the invention recited in claim 48, the Examiner has failed to establish a proper *prima facie* case of obviousness and the rejection of claim 48 should be withdrawn.

In addition, the Examiner is requested to cite actual documentary evidence in support of his assertions regarding the image processing system that is the subject of his Official Notice. Alternatively, if the Examiner is aware of facts within his personal knowledge that provide the requisite factual basis and establishes the requisite motivation to support his deemed conclusion that the features recited in claim 48 would have been obvious, the Examiner is requested to provide an affidavit in accordance with 37 CFR § 1.104(d)(2). Otherwise, the Examiner's rejection of claim 48 should be withdrawn.

Each of claims 49 and 50 incorporates the features of independent claim 48 and therefore is patentable over Rekimoto and Suso for at least the same reasons.

B. Claims 30 and 39

The Examiner has rejected claims 30 and 39 under 35 U.S.C. § 103(a) over Rekimoto in view of Suso and Sekine (U.S. 5,861,916).

Claim 30 incorporates the features of independent claim 22 and claim 39 incorporates the features of independent claim 31. Sekine does not make-up for the failure of Rekimoto and Suso to teach or suggest the features of independent claims 22 and 31 discussed above. Therefore, claims 30 and 39 are patentable for at least the same reasons explained above.

C. Claim 52

The Examiner has rejected claims 30 and 39 under 35 U.S.C. § 103(a) over Rekimoto in view of Suso and Ishibashi (U.S. 5,905,525).

Claim 52 incorporates the features of independent claim 22. Ishibashi does not make-up for the failure of Rekimoto and Suso to teach or suggest the features of independent claim 22 discussed above. Therefore, claim 52 is patentable for at least the same reasons explained above.

IV. Conclusion

For the reasons explained above, all of the pending claims are now in condition for allowance and should be allowed.

Charge any excess fees or apply any credits to Deposit Account No. 08-2025.

Respectfully submitted,

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